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**UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA**

PENELOPE HOUSTON, an individual, GREG INGRAHAM, an individual, JAMES WILSEY, an individual, and DANIEL O'BRIEN, an individual,  <div style="text-align: center;">Plaintiffs,</div> <div style="text-align: center;">v.</div> DAVID FERGUSON, an individual dba CD PRESENTS, BURIED TREASURE MUSIC and ANARCHY ANTHEMS; BURIED TREASURE MUSIC, BURIED TREASURE INC., a Corporation of unknown jurisdiction; INDEPENDENT ONLINE DISTRIBUTION ALLIANCE, INC., a California Corporation;	) CASE No. C10-01881 JSW ) ) <b>STIPULATION AND <del>[PROPOSED]</del></b> ) <b>ORDER CONTINUING CASE</b> ) <b>MANAGEMENT CONFERENCE</b> ) <b>AND CASE MANAGEMENT</b> ) <b>CONFERENCE STATEMENT</b> ) <b>DEADLINE</b> ) ) <b><u>Currently Scheduled Conference:</u></b> ) <b>Date:</b> April 8, 2011 ) <b>Time:</b> 1:30 p.m. ) <b>Courtroom:</b> 11 – Nineteenth Floor ) ) <b>Hon. Jeffrey S. White, Presiding</b> )
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TUNECORE, INC., a Delaware Corporation; and RHAPSODY INTERNATIONAL, INC., a Delaware Corporation,	) (E-Filing) ) ) )
Defendants.	

Pursuant to Rule 6(b) of the Federal Rules of Civil Procedure and Rule 6-1(b) of the Civil Local Rules of the United States District Court, Northern District of California, Plaintiffs PENELOPE HOUSTON, an individual, GREG INGRAHAM, an individual, JAMES WILSEY, an individual, and DANIEL O'BRIEN, an individual (collectively, "Plaintiffs"), on the one hand, and Defendant David Ferguson ("Defendant"), on the other hand, hereby agree and stipulate as set forth below.

This Stipulation and Proposed Order are being submitted for the purpose of continuing the Case Management Conference ("CMC") in this case, which is currently scheduled for April 8, 2011, for at least thirty (30) days, to a date convenient to the Court, as well as continuing the CMC Statement deadline that is tied to the date of the CMC. As set forth in the Recitals below, the parties each believe that good cause exists for the continuation of such CMC in light of the present posture of this case, including the parties having reached a tentative settlement of the action.

### **RECITALS**

WHEREAS, pursuant to the request of the parties in their previously-filed CMC Statement, the Honorable Judge Jeffrey S. White entered an order on February 9, 2011 ("CMC Order") (Doc. No. 67), continuing the Case Management Conference in this matter to April 8, 2011, at 1:30 p.m., in Courtroom 11, 19<sup>th</sup> Floor, Federal Building, 450 Golden Gate Avenue, San Francisco, California; and

WHEREAS, the CMC Order requires that the parties file a joint case management statement no later than April 1, 2011; and

WHEREAS, Plaintiffs and Defendant David Ferguson have reached a tentative settlement and are actively engaged in the process of drafting and negotiating a settlement agreement, and believe that additional time may allow them to finalize the resolution of their dispute; and

WHEREAS, Plaintiffs and Defendant agree and stipulate that a continuance of the CMC and CMC Statement deadline for a period of at least thirty (30) days would be appropriate, and

1 would allow the parties time to finalize the settlement; and

2 WHEREAS, the parties agree and therefore jointly request that the Case Management  
3 Conference currently scheduled for April 8, 2011, at 1:30 p.m. be rescheduled to a date at least  
4 thirty (30) days from April 8, 2011, as well as continuing the CMC Statement deadline that is tied  
5 to the date of the CMC; and

6 WHEREAS, the requested time modifications would have no substantial effect on the  
7 schedule for this case and would encourage completion of the settlement; and

8 WHEREAS, Rule 6-1(b) of the Civil Local Rules of the United States District Court,  
9 Northern District of California, permits the parties to request a modification of fixed deadlines by  
10 stipulation in writing; and

11 WHEREAS, pursuant to Civil Local Rule 6-1(b), a Court Order is required to give effect to  
12 this Stipulation; and

13 WHEREAS, the parties agree that Plaintiff shall give notice of any Order hereon;

#### 14 **STIPULATION**

15 NOW THEREFORE, Plaintiffs and Defendant, by and through their respective  
undersigned counsel, hereby stipulate as follows:

16 1. Subject to the Court's calendar, the Case Management Conference in this matter  
17 shall be continued to a date at least thirty (30) days from April 8, 2011, at 1:30 p.m., in Courtroom  
18 11, 19<sup>th</sup> Floor, Federal Building, 450 Golden Gate Avenue, San Francisco, California; and

19 2. The last day to file a supplemental joint case management conference statement  
20 should be five (5) court days prior to the re-set Case Management Conference.

21 SO STIPULATED.

22 DATED: March 31, 2011

LAW OFFICE OF ALAN KORN  
ALAN KORN

24 By:           /Alan Korn/          

25 Alan Korn  
26 Attorneys for Plaintiffs  
27 PENELOPE HOUSTON, GREG INGRAHAM,  
28 JAMES WILSEY and DANIEL O'BRIEN

IDELL & SEITEL LLP

Dated: March 31, 2011

By: Richard J. Idell/

Richard J. Idell

Ory Sandel

*Attorneys for Defendant David Ferguson*

**ATTESTATION OF CONCURRENCE**

I, Richard J. Idell, attest that I am one of the attorneys for Defendant David Ferguson, and as the ECF user and filer of this document, I attest that, pursuant to General Order No. 45(X)(B), concurrence in the filing of this document has been obtained from Alan Korn, the above signatory.

Dated: March 31, 2011

By: Richard J. Idell/

Richard J. Idell

**~~PROPOSED~~ ORDER**

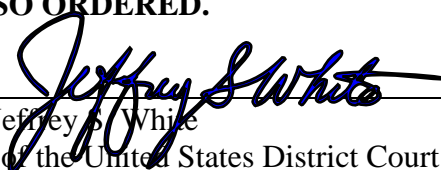
PURSUANT TO STIPULATION, IT IS HEREBY ORDERED that:

1. The Case Management Conference in this matter shall be continued to May 6, 2011, at 1:30 p.m., in Courtroom 11, 19<sup>th</sup> Floor, Federal Building, 450 Golden Gate Avenue, San Francisco, California; and

2. The last day to file a supplemental joint case management conference statement shall be due April 29, 2011.

**PURSUANT TO STIPULATION, IT IS SO ORDERED.**

Dated: March 31, 2011

  
Hon. Jeffrey S. White  
Judge of the United States District Court  
Northern District of California